HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.24217 of 1996

Between:

M/s.Jyothi Theatre

. . .Petitioner

AND

The Joint Collector, Medak District
at Sangareddy

. . .Respondent

Counsel for the petitioner : Shri S.Sudeep Reddy

Counsel for the respondent : Government Pleader for Revenue

Dated: 21st June, 2006

: ORDER :

In this petition filed on 14.11.1996, the petitioner has prayed for quashing notice dated 29.10.1996 issued by Joint Collector, Medak requiring him to show cause as to why no objection certificate/construction permission issued vide proceedings Nos.D1/398/M/94; D1/1484/M/94 dated 30.06.1994 and 26.10.1994 may not be cancelled.

I have heard learned counsel for the parties and carefully perused the record.

In my opinion, the writ petition should have been dismissed at the threshold because on the date of filing thereof, none of the petitioner's legal or fundamental rights had been violated by the State or any public authority. However, the fact of the matter is that a coordinate bench of this Court not only entertained the petition but also passed an interim order suspending the operation of notice dated 29.10.1996. As a result, the Joint Collector could not proceed further and pass appropriate order after considering the explanation, if any, which the petitioner could have submitted to controvert the allegations contained in the notice.

In my opinion, entertaining of writ petitions against show cause notice must be avoided unless it is shown that the authority, which issued the notice, did not have the jurisdiction to initiate proceedings under the particular provision of law or that the notice is tainted by mala fides per se. Routine entertaining of petitions filed against show cause notice unnecessarily adds to the dockets of the Court and

increases burden over the system, which is facing uphill task of deciding old cases.

A perusal of the notice under challenge shows that on receipt of reports sent by concerned authorities suggesting that the land over which permission is said to have been granted to the petitioner for constructing cinema building is Government land, the Joint Collector called upon the petitioner to submit explanation against the proposed cancellation of the grant. The petitioner could have filed reply and produced evidence before the Joint Collector to controvert the proposal specified in the notice. Instead of adopting that course, he rushed to this Court and persuaded the learned Single Judge to pass interim order.

Learned counsel for the petitioner submitted that the Court may adjudicate the legality of the notice on merits, but I have not felt persuaded to agree with him. The mere fact that the writ petition was entertained does not create any right in favour of the petitioner to seek nullification of the notice nor it can be said that the equities warrant exercise of power by this Court under Article 226 of the Constitution of India for invalidation of the notice without allowing the officer concerned to pass appropriate order in accordance with law.

For the reasons stated above, the writ petition is dismissed. The petitioner shall pay cost of Rs.5,000/- to the respondent for filing frivolous litigation.

Since the Joint Collector concerned could not pass appropriate order on account of the stay granted by the Court, I direct him to pass appropriate order, as early as possible but latest within a period of three months from the date of receipt of copy of this order. The petitioner shall be free to file its explanation within a period of one month from today. If the order passed by the Joint Collector is adverse to the rights and interests of the petitioner, then it shall be free to avail appropriate departmental and/or legal remedies.

G.S.SINGHVI, CJ

Date: 21.06.2006

kvni/ks